

**REGULAR COUNCIL MEETING  
OF THE COUNCIL OF THE CITY OF BROOK PARK, OHIO  
TO BE HELD ON WEDNESDAY, MARCH 18, 2015**

The meeting was called to order by Council President Patten at 8:00 p.m., the clerk called the roll and the following Members of Council answered:

**D'AMICO, TROYER, SALVATORE, MENCINI, BURGIO, POWERS, HIGGINS**

Also in attendance were Finance Director Cingle, Recreation Director Fields, Law Director Jamison, Mayor Coyne, Safety Director Byrnes, Service Director Cayet, Engineer Piatak, Assistant Finance Director Healy and Economic Development Commissioner Dolan.

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**APPROVAL OF MINUTES OF PRECEDING MEETINGS:**

1. Special Caucus meeting held on February 18, 2015.

**Motion** by Mr. D'Amico, supported by Mr. Salvatore, to approve as printed. Members of Council voted AYE. The motion carried.

2. Regular Council meeting held on February 24, 2015.

**Motion** by Mr. Burgio, supported by Mr. Mencini, to approve as printed. Members of Council voted AYE. The motion carried.

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**REMARKS FROM THE AUDIENCE (ON ANY SUBJECT):**

Chris Graves

5088 West 147<sup>th</sup> Street

Mr. Graves stated recently the city's law director sued the residents' of the city to invalidate the February 3<sup>rd</sup> ballot initiative, which was overwhelmingly supported by the voters sighting conflict, law and ordinances. According the city's Charter Mr. Jamison is supposed to represent residents'' not sue residents'. Mayor Coyne has said, more than once, with the outcome of the poles the people have spoken and the Mayor has to abide by that. Why then Mayor do you say one thing and do another and please don't insult my intelligence and tell me Mr. Jamison is acting all on his own. Then there is still the matter of this city being strapped for money; there is no money for services that were once provided but the city does have money for the law director to hire outside counsel to sue the residents' of Brook Park. It is also my understanding that there has been a law on the books for about 40 years for minimum staffing and no one had a problem with this law or challenged the law until now; this is a farce. Other cities must be looking at Brook Park and having a very good laugh and its time to stop acting like you are the only ones who know what is best for the city and are the only ones with good ideas; its time to start listening to the residents of this city who voted you into office.

**Remarks from the audience on any subject: cont.**

Catherine McCutcheon

5734 Norwood Drive

Mrs. McCutcheon stated democracy it is the best form of government ever created to assure citizens participation in their own governance. The acceptance and practice of the principle of equal rights, opportunity and treatment implemented by majority rule is the accepted Webster definition. The principle of self-rule by representatives elected by the populous is the basis of a democratic system formed by thoughtful leaders; preserved by activists and protected by the service and the ultimate sacrifice by many, including my own father, assures the future of the system under which we govern ourselves and our communities. The voice of citizens is through the ballot box and the election results reflect the majority outcome and the expectation is that outcome of the election will be implemented. This is how you leaders of Brook Park were chosen to represent us as citizens; your own elected results are respected. You did not contest the ballot outcome when you ran successfully for your own office; in your position you have pledged to diligently serve the public and are paid for your service through our taxes. The results on February 3<sup>rd</sup> were clear Brook Park voters want Fire Station No. 2 open and functioning, Issue 2 is not being contested. This election was done legally and legitimately resulting in a 3-1 outcome supporting the reopening of Fire Station No. 2. The voice of the people of Brook Park was vocal; are you listening? Possible litigation to overturn this verdict is an assault on the principles of democracy and it is unjustified; it is unnecessary; it is frivolous and it is costly. We expect our elected leaders to resist and deny this unconscionable threat to thwart the will of the public; please listen, serve diligently and except the will of your own residents. Do not permit this assault on the democratic process; do oppose this lawsuit effort; allow full democracy to prevail in Brook Park.

Joan Markusic

13911 Bellbrook Drive

Ms. Markusic thanked Service Director Cayet for the awesome of taking care of a recent situation and noticed there are more police officers patrolling the neighborhood. I would like to ask if when the law director and finance director when responding could use a little less derogatory tone towards people.

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**REPORTS FROM STANDING COMMITTEES:**

Aviation & Environmental Committee – Chairman, Higgins

Mr. Higgins stated no report this evening.

Finance Committee – Chairman, D'Amico

Mr. D'Amico stated the Board of Control met earlier and approved 35 items.

Legislative Committee – Chairman, Troyer

Mr. Troyer stated the Legislative Committee has a few items in committee but nothing on tonight's agenda.

**Reports from Standing Committees: cont.**Parks & Recreation Committee – Chairman, Burgio

Mr. Burgio stated no report this evening.

Planning Committee – Chairman, Mencini

Mr. Mencini stated the at the last meeting the commission approved a new 100' wireless communication tower at 1901 Aerospace Parkway that was discussed at the Caucus meeting earlier.

Safety Committee – Chairman, Salvatore

Mr. Salvatore stated no report this evening.

Service Committee – Chairwoman, Powers

Mrs. Powers stated the Service Committee has no legislation on tonight's agenda.

Board of Zoning Appeals – Chairman, D'Amico

Mr. D'Amico stated the next Board of Zoning meeting will be on April 6<sup>th</sup> providing applications are received.

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**REPORTS FROM SPECIAL COMMITTEES:**Southwest General Health Center – Trustee, Salvatore

Mr. Salvatore reported the health center received a generous donation of \$500,000 from the Harding Family Charitable Trust; this family has been part of the center since the late 1960's when Claire Harding was appointed as an Olmsted Falls representative to the Board of Directors. In 1985 Ms. Harding was again appointed as a member of the board and in 1989 became an honorary trustee. This donation will be used to complete the remodel and renovation of the former Coronary Care Unit and the newly Critical Care Unit will be recognized as the Harding Center for Critical Care located in Building D. Mr. Salvatore continued that every employee of Southwest General received a \$100.00 bonus check for a grand total of \$250,000.00. Mr. Salvatore stated the health center has received the several awards from the Distinction Center for Critical Care and for Knee and Hip; award for the best hospital for health care from the Women's Choice; gold plus achievement from the American Stroke Association and the health center received a leap-frog safety score of A; joint commission's certification in stroke and heart failure from the United Premium Joint Specialist Center and CMS named Southwest one of the nation's 97 best hospitals for joint replacement. Consumer reports named Southwest one of the highest rated hospital for knee replacement surgery and surgical services; and top performers on key-quality measures.

Berea Board of Education – Representative, Mencini

Mr. Mencini reported the Berea-Midpark Girls Gymnastics qualified for state. There will be no school on Friday, March 20<sup>th</sup> – Teacher Work Day and even with the snow days, holidays and teacher work days the schools are up on testing and academics as previous years. Recently the Governor's office introduced a proposed budget for 2016-2017 and two sections of that proposed budget will have significant on the Berea School District with the state not being able to afford to give the district that

**Reports from Special Committees: cont.**

the formula indicates should be received and with the TPP (Tangible Personal Property) Tax Reimbursement the Governor's budget is proposing intent is to phase out the TPP, that makes up 11% of the overall district budget and this reimbursement would cut more than \$3 million dollars for the fiscal school year 2016-2017 and completely be eliminated by 2021. Polaris Career Center is looking at their first levy in 31 years in the amount of \$30 million dollars on the 40 year-old building; the rate of the 0.67 mill would cost the homeowner of a \$100,000.00 about \$23.45 per year. Berea School District relies on property taxes and property values have slipped from \$1.6 billion dollars in 2006 to \$1.25 billion dollars in 2015.

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**REPORTS FROM BOARDS AND COMMISSIONS:****INTRODUCTION OF RESOLUTIONS OF COMMENDATION:****REPORTS AND COMMUNICATIONS FROM THE MAYOR:**

Mayor Coyne responded to a few comments that residents made earlier in the meeting. I was impressed with all your presentations and don't know where Mrs. Markusic sees directors being derogatory because the presentations were orderly and professional but I disagree with some of the points made. I've been quoted many times and something I learned as a young boy growing up that the voters are never wrong. I believe that the citizens of Brook Park believe that they voted to reopen the fire station but they did not. There is nothing in the language that was voted on in February that compels the opening of Fire Station No. 2. Mr. Graves pointed out that the ordinance has been on the books for 30 years; it's been ignored for 30 years because it's not enforceable and we're going to find out through this court case that the law director file whether or not that is correct; I believe we will prevail and we should do that. Mrs. McCutcheon greatly articulated the history of our country and about democracy but we're not a democracy we are a democratic republic and there is profound difference and there is a reason why the founding fathers believe that was the right way to go. Because they believe that folks of their elected officials should make the right presentations for them and they have to stand for election, as you so adequately pointed out and I probably stood for election in this town more than anybody. This history of this ordinance if you review it has nothing to do with opening a station; has everything to do with minimum manning and I know Mr. Graves brought that up. That's the condition primarily of negotiations since the advent of the collective bargaining bill in the State of Ohio. The drafting of this legislation that was put on the ballot was done by a lawyer who just happens to also represent the fire department. This city has supported the unions when the governor tried to initiate a

**Reports and Communications from the Mayor: cont.**

senate bill that would take away the collective bargaining capabilities of working people and this town very dramatically denied the governor of that ability. The firefighters union tried before to change our Charter to address minimum manning and that was rejected by the voters of this city overwhelmingly. What the Mayor did then he closed the station because the number of stations dictated the manning after an arbitration decision; so the Mayor tore a station down and did that legally and it was the right thing to do; because it kept control where it ought to be. The daily operations of your safety should not be governed by a union or a union interest group; it should be governed by your elected officials and the budget they pass and the resources that we have. So it was Mayor Coyne that closed the fire station not for economic reasons but for logistical reasons and I've never changed my opinion on that since I was first elected Mayor in 1981 and took office in 1982; so I've never changed. It was never about money to me it was about logistics, however, we just happened to save and avoid a tremendous amount of costs and that ten-month experience there was no grave fatality in this town through that experience. As a matter of fact I think I could make very good arguments that the folks on Engle Road, those two people were save probably because we were in one fire house. To tell you how things work there was a change of shift and the city had the maximum number this city could ever have of our own folks present there, but that's for another day. So clearly Mrs. McCutcheon I know what the voters believe they voted on and they believe in their hearts when they went to the polls they were voting on opening a fire station; when in fact they were not. So to take the pressure off of everybody and get this city moving forward we have to have this discussion another day; it's not going to go away. I heard somebody say about losing services no one has lost an ounce of service in this city and tonight hopefully a budget will be passed that will get this city back to balance, not spending out of the city's reserves, for the first time in six years and that was done because decisions had to be made to cut personnel. We have to change the way we deliver services in this town in order to keep you at the level you expect and what you will pay for. I brought two measures to the people of this city to fund the recreation center and senior services blown away three to one that was the voters' choice. Another one for capital improvements to our city you heard us talk tonight about the Recreation Center and City Buildings and I drove down about a 1/2 dozen streets with the engineer the other day who gave me a bill of \$6 million dollars. Those are the realities that we are not dealing with tonight but we have to deal with so the fact of the matter is Brook Park and all cities are either going to change the way they deliver services and that includes Fire, EMS, Rubbish and Sewer Maintenance Services down the line or we will not survive. Make no mistake about that unless you intend to pay a lot more in taxes then you do right now. So I don't instruct the law director to do anything as a matter of fact if I had my way we would have filed this lawsuit before there was even an election because I think we could have avoided a lot of heartache and got to get where we need to get in discussion about how services are delivered. I want the public interest to be served and if I have to fight the special interests to do that I will do that and hopefully maybe it's my

**Reports and Communications from the Mayor: cont.**

failure in explaining to you what the situation really is. Make no mistake about it the voters of this city had on their ballot a provision that avoids the contract the of the fire department because what this fight was all about is under their contract if there is only one facility you knew who controls the manning-the management of this community and that's who should do it. So I don't want to reopen these wounds at this time but the fact of the matter is it needs to be challenged so that forget Tom Coyne the future Mayors and future Councils' can do what they were elected to do and determine how cities go forward so in this particular case my own personal opinion the voters of this town were duped. What they thought they were voting on and what they were voting on was two different things and I'll tell you how disingenuous it is. The interest group that put this forward tried to get the language changed at the Board of Elections at the 11<sup>th</sup> hour so it would read that. So anybody that can show me that the ballot language says that it open the Ruple Road firehouse it clearly doesn't but I understand what the people did and what we'll have to do is live to fight another day and have this argument down the line. It's unavoidable and is going to happen whether it's today or tomorrow and we need to have a community discussion about that so I applaud everyone coming up here and no one is trying to do anything to discount the voters or disrespect the voters as a matter of fact its just the opposite; the voters of this city also passed a Charter and have amended the Charter and there is good reasons why. In many instances it says the Mayor has too much control well not necessarily there is a balance to all of these things and we have other elected officials in this town. We have an elected finance director and an elected law director and if the law director feels there is something wrong he can act his own. Do I agree with what he's doing I surely agree do agree with what he's doing because it's the right thing to do but in the meantime the decision to open and close the station lies with me and the station is open; so that issue is gone away. What the people thought they voted on I heard them and opened the station and we will have that discussion another day but I thank you for coming up this evening.

**Council Participation:**

Mr. Mencini stated my statement leading to the question is you hear people say we want our city back and I'll be honest I counted the numbers in here and know everyone of you and we all want what's good for Brook Park. The in-fighting and things of that sort isn't going to get us where we have to go and we all know that. My point is I want the city back for the children I coach, for myself because I plan on staying here as I know a lot of you do and we need something to start heading in that direction. My question is on the plan in my ward alone and we're moving forward with some of the housing which is very important and moves a lot of older cities forward. When you say the streets look at our streets and in my ward alone I would say have 10 to 11 streets that need to be fixed yesterday; probably torn out. There is a big cost to that and there is a cost to a lot of things that we have to do we're an aging city. I guess my point is where do we

**Reports and Communication from the Mayor – Council Participation: cont.**

go here; where are you looking at and I think the streets are big and a lot of cities have that problem. Is there a capital improvement tax that we might have to be looking at or what ways to fund some of these projects or project; what is the plan?

Mayor Coyne responded this city has known this and the reality is I wish the roads had potholes they don't this city has disintegrating streets that have to be replaced. So, therefore, we're going to have to come up with something and one of the reasons why we have to get as close to the reserves as we can is for the city's ability to borrow money. I hope to have a town hall in April to talk about these issues but I happen to believe that if our citizens walk around the town or putting their rubbish out they can see the end result of the problem. I am for putting some measure before the voters in the future for capital improvements for roads and sewers because clearly that has to be done. No matter what is done with housing or people doing their own housing if the streets are deteriorated then the property values will not be kept; with the problems of the streets the new sweeper will be worn out in about two weeks. So I'm willing to have that discussion and once the budget passed this evening we are close to where the city needs to be to start to make the next step and I think we've shown residents, what we're doing here this evening, there's been a tremendous amount of human capital that's been expended here; people have lost their jobs. Most of them are re-employed but there are still some out there that are not but there was a cost to this and we reduced \$1.6 million dollars last year which is absolutely tremendous in getting the city's operating side but unless there is an influx of capital from somewhere the Council's capital requirements needed right now are going to be tremendous I think we should have a discussion about that and I'm going to ride around different areas of the city with the engineer. Most of the streets the engineer and I rode around in Ward 2 is about \$6 million dollars right now and haven't been to the other three wards to date. If we had the ability to have that capital fund from the income tax and segregated for that use, not for operating, we'd be in a position to borrow money and use it as debt retirement service and accelerate our ability to fix the roads that are deteriorating as most of them are.

Mr. Mencini stated it's just a fact that we have to look at reality and definitely start looking ahead. There are going to be tough choices and obviously decisions to be made for Brook Park's future.

Mr. Troyer stated to Mayor Coyne as you may know I was always against closing of the station and was always for the reopening of the station and, of course, against closing it again. You mentioned a few minutes ago that the residents' believed that they were voting to reopen the station, so therefore, the intent of the vote of the residents' was to open that station and keep it open; by a vote of 2-1. In fact one precinct...precinct A I believe was 81 or 82% in favor of opening that station. So the question is if the city is successful in this lawsuit will you leave that station open to do...to get to follow the intent of the residents' because the intent was to have that

**Reports and Communication from the Mayor – Council Participation: cont.**

fire station open whether the wording may have been wrong, or something else or there is other issues but if the city is successful in this suit will you leave that fire station open?

Mayor Coyne responded let me answer the question this way the fact of the matter is I have the authority right now to do either and it's open right now and we're going to have a discussion about this issue going forward with the community; so I have no intentions of closing it right now. I can't tell you that if something happens in the future that if it warrants doing that and it's the best interest of the total community that I wouldn't do it again. The fact of the matter is its open right now but we're going to have a real discussion about what the real issue is with this and hopefully we can come together as a community and do the things that we have to do. So, again, the folks that put that petition out knew what they were doing you would not be having these discussions if they didn't they were very ill-advised because they had a lawyer drafting it that was going to put me in the position where I couldn't win; but I want the public to know this these Members of Council had nothing to do with this. So to blame them or the people threatening them is totally wrong it's not their decision it is mine and it is my responsibility. So I closed it for very good reasons and I did that looking at a lot of different issues. The experience of ten months indicates to me that I made the right decision and I know what the voters voted on so, therefore, I'm opening it at this point in time and we'll have to determine what it is costing the community and does it begin to diminish service city-wide because that's what I'm charged with. So my answer to your question is it is open today, I don't think the lawsuit has anything to do with it one way or the other it is in the perusal of the authority of the Mayor of the city and that's where it remains; I closed it I opened it.

Mr. Troyer stated you mentioned, Mr. Mayor, that no one has lost an ounce of service I believe when it was closed. My feeling is and won't change is when it was closed the people on the west end they lose service.

Mrs. Powers stated I supported the reopening of the fire station out there and I live about as far away from that fire station as you can get but I supported it because I feel that those people out there deserve the same response time that we have here and the Mayor talked about the fire on Engle Road that happened at shift change when you have a lot of people there. Well, had that fire been out on the west end and there were no firemen out there not only would we have lost two lives we would have lost a house also. Just those two people...

Mr. Patten – Councilwoman, you have a question for the Mayor that's what this is; question to the Mayor. We understand your view but this is a question to the Mayor on his report.

**Reports and Communication from the Mayor – Council Participation: cont.**

Mrs. Powers – Okay, then the question is that since we all thought we were voting to open that fire station will you keep it open?

Mayor Coyne – Okay, I just answered your question...

Mrs. Powers – I know...

Mayor Coyne – It's open and unless I'm convinced that otherwise it will stay open. If there are and again I had a discussion about there is better ways to deliver services there is a proposal I could make to you to keep it open forever in a different deliver service mode of delivering services that would save this city lots of money. The statement you make about Ruple Road is interesting if there were two firefighters in Ruple Road and I live closer than anybody and that fire was at my house. Under the same circumstances I'd probably not have made it if there two folks in that place because they couldn't respond that way and they did a tremendous job. So, again, it's about logistics so the answer to your question is the station is open and will remain open until circumstances would warrant it not to be open.

Mrs. Powers – May I through the law director.

Mr. Patten – No this is to the Mayor during his report you can ask the law director a question.

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**REPORTS AND COMMUNICATIONS FROM OTHER DEPARTMENTS,  
COMMISSIONS, PUBLIC OFFICIALS:****Engineer Piatak**

Mr. Piatak stated with the Smith Road Phase III Sewer Project mainline sewer installation south of Snow Road and actually right now the contractor is at the Gallatin intersection. Tomorrow some of the crossovers on Smith Road, north of Snow Road, at Muskingum and Remora and then the crossover at Bowfin will be opened. There is water main break over there that is isolated and are waiting for water department to fix it before the temporary pavement can be put in to open up that crossover. Beginning mid next week or the following week the contractor anticipates mobilizing another crew to focus on lateral work so there will be some activity going on over there.

Mr. Burgio stated how many water breaks are there in the city it looks like there is a water main break on Snow Road west of West 130<sup>th</sup> Street and also on Smith Road just south of Holland Road; it looks like there is some drilling in the asphalt. Are those being addressed and is the city aware of those.

**Reports and Communications from other departments, commissions, public officials: cont.****Engineer Piatak: cont.**

Mr. Cayet responded the city has three active breaks currently and the City of Cleveland has been notified and the city is just waiting for them to come out and repair them.

Mr. Burgio asked should that be coned off or should there be barriers around them in case of a possibility with the water continually running for the past several days is there a possibility of the street caving in.

Mr. Cayet responded I hope not and with anything it is a possibility; we can't see underground. The one at Snow Road and West 130<sup>th</sup> Street is barreled off and is coming out of the curb; not the middle of the street, and runs down to the catch-basin towards Del Sangro's. The one on Smith Road across from Richard Drive is running in the curb and not causing any problems except for a wet road. The City of Cleveland prioritizes their work and the City of Brook Park has nothing to get them over quicker because there are breaks all over.

Mr. Mencini stated with the Smith Road Sewer Project the contractors did a great job crossing over the Snow Road intersection. When the project be wrapping up on Smith Road between Snow and Hummel Roads, this is coming from both vendors and residents, you've been right on with the dates but when is the contractor looking at moving out of that area?

Mr. Piatak responded the crews won't be completely out of that area until the road gets paved over and right now the contractor is waiting for crews to come back with the boring equipment to do the lateral connections; my anticipation is having that center trench open from Bowfin to Hummel for another two months with the exception of the areas in between the crossovers at some of those streets.

Mr. Mencini stated that vendors have said business is slow but there is a lot of traffic and don't see that much of a problem; just looking for a set date.

Mrs. Powers stated is it the responsibility of the contractor or maybe the city the stretch on Smith Road between Hummel and Snow that has so many potholes. People are avoiding that area by driving around for fear of damaging their cars in that area. Should that contractor be filling the potholes to make that stretch drivable?

Mr. Piatak responded the contractor is required to keep the road in condition so that cars can pass through. Obviously, the road is in bad shape not necessarily through the fault of the contractor. However, the contractor has been filling potholes almost on a daily basis and hopefully with a little break in the weather some of that

**Reports and Communications from other departments, commissions, public officials: cont.**

cold-patch will stick better until some permanent repairs can be made; the contractor is aware and has been addressing some of the potholes.

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**Service Director Cayet**

Mr. Cayet stated with the milder weather approaching potholes are prominent all over the city and the department has been running three shifts around the clock to fill in the potholes. The third shift is running on the main roads such as Route 237 and Snow Road, when there is less traffic; the roads are deteriorating and the curb lanes all full of gravel. The city purchased a new street sweeper and will take delivery next week and there will be a person from the company in Texas that manufactured the sweeper to train city employees; come the month of April the sweeper will be running possibly on two shifts until the city gets cleaned.

Mr. Troyer thanked Mr. Cayet for patching the potholes on Calvin Drive, my street, but the drying up of water has exposed more potholes in that area and in the area of Sylvia-Leslie it looks like gravel bombs went off and I know you're busy but if you could take a look at it.

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**Safety Director Byrnes**

Mr. Byrnes stated today Brook Park got a little bit of news because, obviously, the President was in town and whenever the President comes to town the city's police department is involved in assisting the with security. A few calls were received today because of the helicopters and the reason why is for Air Force One; so over the next few years this will create a common occurrence. The President coming to town does create a some problems such as different air traffic but today everything went fine.

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**Law Director Jamison**

Mr. Jamison stated I as well, would like to thank Mr. Graves and Mrs. McCutcheon for coming forward this evening to allow me the opportunity to explain how and why this lawsuit was filed a few weeks ago. If you remember when these Initiative petitions were presented last August at the moment they were presented I came before this Council and stated, at that time, that they would have no legal effect if ever adopted by this Council or later voted on by the voters of the City of Brook Park. I outlined those reasons at that time and I was consistent with those statements through the balance of the fall of last year and through the winter of this year. So it should come as no surprise that my position has not changed since last August; here's why I had the concern back then and I have it now. As the Mayor related the people thought they were voting on opening the station but here's the actual language, I think

**Reports and Communications from other departments, commissions, public officials: cont.****Law Director Jamison: cont.**

everybody always forgets what the actual language that was on the ballot this last February; I'll read it verbatim. It said "Shall Section 143.026 of the Codified Ordinances of the City of Brook Park be amended to require that an addition to the Fire Chief, Assistant Fire Chief and Fire Prevention Personnel there shall be a mandatory minimum of five firefighters working at 17401 Holland Road fire station and two firefighters working at 22530 Ruple Road fire station in the city at all times". Nothing in there talks about that station on Ruple Road being opened, that language addresses the manning levels of each of those two stations and here is the reason for the concern and why I raised it back in August and why I still have it. The problem becomes is that language basically invades the Executive powers of our city and we were talking about democracy and about our Constitution and everything else one of the inherent powers in our democracy is the separation of powers between the three branches of government; Legislative, Executive and Judicial and the problem in this case is that this Ordinance is legislation. It wasn't adopted by this Council but it was adopted by Initiative ordinance which our Charter and the Constitution for the State of Ohio allows but, be that as it may, it still has to be in compliance with the laws of the State of Ohio as it to being legislative in nature. The problem becomes is that this ordinance is administrative in nature and that becomes a real problem. This Council couldn't pass that Ordinance because can't tell the Mayor or any executive member of this Administration how to run the day-to-day affairs of any division be it recreation, fire, police, finance, whatever it is and in that sense that's the problem with this. Is that this language that was adopted creates a precedent that usurps or takes away the power of the Mayor to run the day-to-day affairs of this city and as outlined in the lawsuit there are three separate claims that we have for the court to resolve this issue. The question came up earlier and I've heard it raised before; well how come we didn't file a lawsuit before the election? We couldn't file a lawsuit before the election because the law doesn't allow it, in fact, Councilman Salvatore raised that issue back in August of last year when we were having these discussions. He said at that time well can we – Council make that determination I told him no you don't have that power, I as the law director don't have that power. At the end of the day the only one that has the power to declare something unconstitutional or invalid is a court of law – the judicial branch. The law in Ohio provides that on Initiative Ordinance that it cannot be declared invalid until it is voted on the voters. Once it becomes law, if it becomes adopted by a majority of the voters and goes through the process to be enacted that is when it can be challenged or be questioned as to its validity. In this case I chose the mechanism of what's called a 'Declaratory Judgment' we're asking the court there is obviously a difference of its validity. Obviously the committee that supported this believes that it's valid; I believe it isn't because it violates certain things in our Charter, in our Revised Code and in our Constitution and for those reasons that's what a court is there to do. They're there to make a determination as

to the **Reports and Communications from other departments, commissions, public officials: cont.**

Law Director Jamison: cont.

validity of this law. At the end of the day we just can't let thing sit because it sets the precedent then for any other group or individuals who want to come forward and who want to attempt to do the same thing. What if, for example, we said we want to have ten lifeguards in the pool at all times let's say that we want ten police officers in the Detective Bureau at all times. The people and the Council as a legislative body don't have the power to do that; that's not what is in our Constitution in our Federal Government, our State Government and in our Charter. So it's really a question of how our government works and really and I thought it was a great discussion about democracy; really how our representative democracy works. The problem becomes the mechanism and method that this committee chose to try and get that station reopened, in my opinion, was the wrong mechanism and method to use and as I stated earlier I've been consistent in saying that and it's not like I'm just making this up. To just let this sit there would create a very bad precedent for not only us but for the entire State of Ohio and so that's the reason this has been filed and will go forward and at the end of the day a court will tell us either this ordinance is valid or its invalid; then we move forward accordingly.

Mr. Troyer stated to Law Director Jamison what would be the correct method and mechanism to follow to get that fire station reopened if it were to get closed again.

Mr. Jamison responded I would have to research that and figure that out; I've never gone through that process in terms of...because you ask an interesting question. Are you talking through a legislative means or an executive means.

Mr. Troyer stated legislative or the residents'.

Mr. Jamison responded see, here's what Council has to understand. At the end of the day you have the ability to enact laws; to say what businesses or people in the city can and cannot do and you also control the appropriations for this city. Beyond that you don't have the power to run the day-to-day affairs of any department in the city. You can't tell the safety director how to run the animal warden; you can't tell the recreation director how to run little league baseball. You can appropriate monies for them to finance those and its then up to the executive branch to implement those programs in the discretion of the Mayor in his administration. So when you ask how you could you do it on a legislative means. I don't think that is something legislatively you can do but if there is some other creative way I'd really have to think about. At the end of the day you just can't sit there...what if someone came forward tomorrow and said we should have four fire stations; we should have three police stations you just can't do that. So from that perspective that's why you have the separation of powers inherent in our government because you have to have that

balance. So to answer your question off the top of my head I don't know of any way to do it but I would certainly think about it.

Mr. Troyer stated okay, another question couldn't Council pass a resolution asking the Mayor to open the station or leave it open since it would be non-binding.

Mr. Jamison responded you can pass a resolution it's just an expression of what Council would like to have take place but it has no legal or binding effect.

Mr. Troyer stated thank you, one more question. In the suit on page seven – Prayer for Relief starts with Wherefore, Plaintiff prays for judgment against defendants accordingly and then number three it says for all such further legal and equitable relief to which plaintiff may be shown to be entitled to at trial. What does that mean?

Mr. Jamison responded that is standard language that goes in any complaint that we ask for specific things in the prior two paragraphs. Basically it's a general request that even if its something we didn't specifically ask for we're entitled to as a matter of law that the court award us accordingly.

Mr. Troyer stated could that also mean court costs, where if you were successful in the suit that the...

Mr. Jamison interjected that's always in the discretion of the trial court to determine and I can't tell you what the court will ignore that in this case or not.

Mrs. Powers stated to Mr. Jamison the law is supposed to be based on what reasonable and prudent. In what you just read about how it was worded and it says five people at Holland Road and two people at Ruple Road. I think any reasonable and prudent person would think that the Ruple Road station would be open because there would be no point in specifying that you put two people there if the station wasn't open. So, to me, it seems that we voted for not only manning it with two people but opening the station. Also I think this is frivolous, ridiculous lawsuit and we, as Council, you said we have the right to do the funding. I am asking Council now that we not fund our money going out there to have this ridiculous lawsuit after the people said we want that station open. So we do not need to be funding this when we're sitting here talking about how our roads are falling apart; how everything is falling apart; how our city buildings are falling apart they all need new HVAC (Heating, Ventilation and Air Conditioning) systems. So why would we spend one dime on this lawsuit?

Mr. Jamison responded first of all it's not a ridiculous lawsuit. There are serious legal questions that arise from the adoption of this ballot language and it needs to be resolved one way or another. So you would call it ridiculous I would call it serious and important because it carries a precedent for how things can be done down the road,

**Reports and Communications from other departments, commissions, public officials: cont.****Law Director Jamison: cont.**

not only here but everywhere in the State of Ohio. So for that reason it's not a ridiculous and frivolous lawsuit I take it very serious what I do and what I feel about this and like I said earlier I said this from the beginning; so it's not like I'm just coming up with this and saying this. I warned everybody last August that there was consequences that this would have no legal effect if it was adopted. The voters, at the end of the day, chose to vote for this and that is certainly their right; the problem is that the language they voted on doesn't call for opening a station. It calls for staffing and how personnel in the fire department is implemented on a day-to-day basis and that usurps the authority of the executive branch and creates a precedent that cannot go forward. So this lawsuit isn't about the fire station its about the mechanism and method that was chosen by this committee to get to that point and then for me what's important here is to create or to resolve that issue as how they chose to get there. So that's what this lawsuit is about its not about the fire station it's about the method and mechanism they chose to get there and in my opinion it was wrong and at the end of the day the courts will resolve that.

Mrs. Powers asked Law Director Jamison to once more the language on the ballot?

Mr. Jamison responded 'Shall Section 143.026 of the Codified Ordinances of the City of Brook Park be amended to require that in addition to the fire chief, assistant fire chief and fire prevention personnel that there shall be a mandatory minimum of five firefighters working at the 17401 Holland Road fire station and two firefighters at the 22530 Ruple Road fire station in the city at all times'.

Mrs. Powers stated could you explain to me how those two people at the Ruple Road fire station can work out there if the station isn't open.

Mr. Jamison responded again the language of that doesn't talk about opening a station. If you notice I did an emphasis on two words in there – mandatory minimum of five and two; that's what this is about. This is about staffing levels at those two fire stations and at the end of the day that's what the concern with this legislation is. Is that it steps beyond the powers of the legislative body to enact a law that is what called administrative in nature and the law in Ohio provides this Council or the people through the Initiative ordinance process cannot enact legislation that is administrative in nature; there are other reasons why it's invalid. There's language in the collective bargaining agreement under the Management Rights clause that gives the Mayor the power to run the day-to-day affairs of that department; this language violates that provision. It's interesting to note that if I'm wrong that the proponents of this in essence might be circumventing and undermining the collective bargaining act at the end of the day. Because if a group like this can come forward and say that we don't

**Reports and Communications from other departments, commissions, public officials: cont.****Law Director Jamison: cont.**

like something that is in your contract...because right now we have in our contract have language about minimum manning and this is an attempt to try and get around that. So let's say there's some issue down the road in the police or fire contract that a group on either side doesn't like that comes through the collective bargaining process and they try and use the legislative process by Initiative ordinance or Charter amendment. To then go to the voters and undo what was done in the collective bargaining process it undermines the entire foundation of the Collective Bargaining Act that was enacted in the early 1980's; and was challenged numerous times. Mayor Martin in Rocky River and others went after this saying that it violates Home Rule powers and the Supreme Court of Ohio said no, but if I'm wrong and the court says that this ordinance is in effect. This also has the potential for potentially undermining the Collective Bargaining Act if you take it through its logical extent. So that is why this is serious and it's not ridiculous and frivolous this has very serious consequences not only here but statewide; so for that reason that's why this was brought we need to resolve this issue.

Mr. Troyer stated to Mr. Jamison you said a few times the wording was wrong but I think you really mean by your whole conversation that there was no wording that could be right, is that correct? Because I'm just trying to find out what wording would be right if there...

Mr. Jamison responded well, I've never done the analysis or sat down and figured out what the correct or right way was. I guess as I stated earlier it's my belief that this Council as a body or citizens through the Initiative process could not enact this because it takes away the administrative or executive powers of the Mayor or Executive Branch. So, again, I guess have to think about it but off the top of my head I would say, in my opinion, the way this was attempted just cannot be done.

Mr. Troyer stated okay, so I think what you're saying here and correct me if I'm wrong that the only way to change this would be to get a different administrator that would be open to leaving it open by a vote of the people.

Mr. Jamison responded if you're saying that when the mayoral election comes up and you want to vote whoever is running, who might have that point of view I guess that's one way to do it, yes.

Mr. Troyer stated so you feel that's the only way? I'd be interested to know if you could look into that...

Mr. Jamison interjected I'll certainly think about it.

**Reports and Communications from other departments, commissions, public officials: cont.**Law Director Jamison: cont.

Mayor Coyne stated to Law Director Jamison we're talking about the administrative branch if this is taken literally wouldn't it also compel this City Council to mandate them to appropriate monies whether they wanted to or not. Or if there was a determination that we had the revenues to build a central operation that all sides may or may not agree is the right thing to do. If this ordinance prevail that would preclude the Council or the Mayor in the future from doing that.

Mr. Jamison responded that raises a good point; one of the causes of action we have in this lawsuit is that this ordinance didn't comply with the requirements in order for it to be in effective initiative ordinance. One of the requirements is that it has to be detailed to the effect of what you were just saying in terms of appropriating monies and things of that nature; this didn't meet that criteria. So it's on a number of different levels that this ballot language, this initiative ordinance, should fail in my opinion and that's one of them. Is that it really again invades the province of this Council on how to appropriate monies for this kind of activity.

Mayor Coyne stated one final question this ordinance clarifies at all times; 'shall be stationed at all times' what does that mean? That means that they're stationed at that station and they can't go anyplace else. If you take it literally the interpretation of what the language says. What does that mean?

Mr. Jamison responded well, again, I guess we would have to resolve that at the appropriate time if that became either a grievance through the fire department's collective bargaining agreement. To me the interested word there is working after it says for the five firefighters and two; so what constitutes working I guess.

Mayor Coyne stated one final question the language was drafted for this committee by an attorney at law duly licensed in the State of Ohio?

Mr. Jamison responded I don't know who actually wrote it for them I know they did have an attorney but whether he drafted it I don't know but I know he advised them.

Mayor Coyne stated okay.

Mr. Troyer stated I just want to say all laws are based on intent; all laws have intent. Sometimes they're misused in using certain words but they all have intent and that's what you go by.

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**Reports and Communications from other departments, commissions, public officials: cont.****Recreation Director Fields**

Mrs. Fields stated this summer the center is partnering with YOU (Youth Opportunities Unlimited) that is giving us 28 positions to fill for summer jobs from youth ages of 14 to 18; if anyone knows anybody that needs a summer job between these ages they can visit the Youth Opportunities Unlimited website and apply for a job; everything is paid by YOU and this is a internship summer job program. The center was also awarded for the second year in a row from Chevrolet on Brookpark Road a \$500.00 check as well as various baseball equipment. A document was given to all Members of Council relating to vein scanning at the Recreation Center. A lot of members are thinking that when they come to the center and register that their fingerprint is being taken where actually their vein is being scanned; everyone has a unique fingerprint and also have a unique vein. This scan is not sent anywhere else to obtain information it's just a vein scan to enter into the facility.

Mr. Mencini asked Mrs. Fields for an update on the membership.

Mrs. Fields responded memberships are doing fairly well the center used to do memberships for residents' \$20.00 and non-residents' \$40.00 and have reduced to the center doing monthly memberships for \$10.00 per resident's and \$20.00 for non-residents'; so the center is trying everyway to get the revenues up.

Mr. Mencini congratulated Mrs. Fields and the Recreation Center staff for a great basketball season and also thanked Mrs. Fields for the earlier conversation today.

Mr. Salvatore asked Mrs. Fields for an update on the baseball signups?

Mrs. Fields responded registrations are coming in slowly; the girls programs are fair and at the same level last year and I was anticipating more. I just don't know if people don't have the money to sign up or what the problem is?

Mr. Salvatore asked if people have mentioned that money is an issue.

Mrs. Fields responded yes, some of the members have asked me to register their child and put their fee on standby.

Mr. Troyer asked Mrs. Fields for clarification of the recent donation is from Ganley Chevrolet and not the Chevy plant.

Mrs. Fields concurred.

**Reports and Communications from other departments, commissions, public officials: cont.**

Recreation Director Fields

Mr. Troyer asked for Mrs. Fields to contact him after the meeting for donation ideas for the upcoming Easter egg hunt.

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Finance Director Cingle

Mr. Cingle stated the 2014 audit is ongoing and are probably two months out until before the completion of the audit and will keep Council informed of any updates.

Mr. Burgio thanked Mr. Cingle for taking time to meet with him to answer questions about city finances.

Mr. Troyer stated to Finance Director Cingle getting back to the law director's suit to the best of my knowledge the city has hired two co-counselors to help with the case. A couple of questions; will the law director be paid additional monies for this action at the hourly rate contained in the Charter 133.01(e)? Does the City Council have to pass an ordinance to hire the two co-counselors and from what fund will those two co-counselors be paid and what is the hourly rate.

Mr. Cingle responded with question one I will let the law director answer. Question two no, Council does not have to pass special legislation to hire the attorney, I believe there is only one firm, that's going to represent the law director as co-counsel; I am not aware of two. The monies will be expensed out of the Miscellaneous Executive Fund in the General Fund; the Miscellaneous Executive sub-fund in the General Fund.

Mr. Jamison responded my outside hourly rate is \$85.00 an hour per ordinance, I believe.

Mr. Troyer stated Charter.

Mr. Jamison commented I think its ordinance.

Mr. Troyer stated okay.  
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**OTHER COMMUNICATIONS, PETITIONS, AND VERBAL APPROVAL:  
(INTRODUCTION OF NEW LEGISLATION):**

New Legislation:

1. A Resolution accepting the recommendations and approving the minutes of the Housing Council on the City of Brook Park's Community Reinvestment Areas – CRA Agreements and declaring an emergency Introduced by Mayor Coyne.

**Placed in the Finance Committee**  
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**MISCELLANEOUS BUSINESS (APPOINTMENTS, CONFIRMATIONS):**  
-----**INTRODUCTION OF RESOLUTIONS AND ORDINANCES: (FIRST READING):**

1. ORDINANCE NO. 9961-2015, AMENDING SECTION 1313.04 OF THE BROOK PARK CODIFIED ORDINANCES ENTITLED 'GENERAL RESIDENTIAL BUILDING PERMIT FEES' AND DECLARING AN EMERGENCY Introduced by Councilman Mencini

Mr. Patten stated Ordinance no. 9961-2015, has had its First Reading.

2. ORDINANCE NO. 9962-2015, AUTHORIZING THE MAYOR TO ENTER INTO A CONTRACT BETWEEN BREWER-GARRETT COMPANY AND THE CITY OF BROOK PARK AND DECLARING AN EMERGENCY Introduced by Mayor Coyne

→ **Motion** by Mr. Salvatore, supported by Mr. D'Amico, to suspend.

**ROLL CALL: AYES:** Salvatore, D'Amico, Higgins, Burgio, Mencini

**NAYS:** Troyer, Powers. The motion failed.

Mr. Patten stated Ordinance No. 9962-2015 has had its First Reading.

3. ORDINANCE NO. 9963-2015, APPROVING THE EDITING AND INCLUSION OF CERTAIN ORDINANCES AS PARTS OF THE VARIOUS COMPONENT CODES OF THE CODIFIED ORDINANCES; PROVIDING FOR THE ADOPTION OF NEW MATTER IN THE UPDATED AND REVISED CODIFIED ORDINANCES; PUBLISHING THE ENACTMENT OF SUCH NEW MATTER; REPEALING ORDINANCES AND RESOLUTIONS IN CONFLICT THEREWITH; AND DECLARING AN EMERGENCY Introduced by Council President Patten

Mr. Patten stated Ordinance No. 9963-2015, has had its First Reading.  
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**INTRODUCTION OF RESOLUTIONS AND ORDINANCES: (SECOND READING):**

1. ORDINANCE NO. 9959-2015, AUTHORIZING THE MAYOR TO ENTER INTO AN AGREEMENT WITH CUYAHOGA COUNTY FOR THE RESURFACING OF WEST 130<sup>TH</sup> STREET AND DECLARING AN EMERGENCY Introduced by Mayor Coyne

Mr. Patten stated Ordinance No. 9959-2015 has had its Second Reading.

**Introduction of Resolutions and Ordinances: (Second Reading): cont.**

2. ORDINANCE NO. 9960-2015, AUTHORIZING THE MAYOR TO ADVERTISE FOR REQUESTS FOR QUALIFICATIONS (RFQ) FOR AN ENERGY EFFICIENCY PROJECT AND DECLARING AN EMERGENCY Introduced by Mayor Coyne

**Motion** by Mr. Troyer, supported by Mr. Burgio, to suspend.

**ROLL CALL: AYES:** Troyer, Burgio, Mencini, Powers, Higgins, D'Amico

**NAYS:** Salvatore. The motion carried with a vote of 6-1.

**Motion** by Mr. D'Amico, supported by Mr. Troyer, to adopt.

**ROLL CALL: AYES:** D'Amico, Troyer, Salvatore, Mencini, Burgio, Powers, Higgins

**NAYS:** None. Ord. No. 9960-2015 has passed under Suspension of the Rules. Adopted.

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**THIRD READING OF RESOLUTIONS AND ORDINANCES:**

1. ORDINANCE NO. 9957-2015, TO PROVIDE FOR THE APPROPRIATIONS OF THE CITY OF BROOK PARK, STATE OF OHIO, FOR FISCAL YEAR ENDING DECEMBER 31, 2015 AND DECLARING AN EMERGENCY Introduced by Mayor Coyne & Councilman D'Amico

Mr. Salvatore stated I have a few amendments that I would like to propose some of them have been discussed with the Mayor of a couple of things that are going to be changed as to the way we are going to apply some services. So we have to put some monies back into the police and fire departments, at this time I'd like to make some motions to make some amendments.

**Motion** by Mr. Salvatore, supported by Mr. Higgins, to amend Fund 412 – Police Department – Personal Services to amend the original appropriation of \$3,697,893.44 for an adjusted amount of \$48,754.32 for an adjusted appropriation of 43,746,647.75.

**ROLL CALL: AYES:** Salvatore, Higgins, Powers, Burgio, Mencini, Troyer, D'Amico  
**NAYS:** None. The amendment carried.

**Motion** by Mr. Salvatore, supported by Troyer, to amend Fund 413 – Fire Department – Personal Services to amend the original appropriation of \$3,278,507.98 for an adjusted amount of \$159,276.50 for an adjusted appropriation of \$3,437,784.48.

**ROLL CALL: AYES:** Salvatore, Troyer, D'Amico, Higgins, Powers, Burgio, Mencini  
**NAYS:** None. The amendment carried.

**Motion** by Mr. Salvatore, supported by Mr. Burgio, to amend Fund 415 – Building Department – Contractual Services to amend the original appropriation of \$56,695.00 for an adjusted amount of \$500.00 for an adjusted appropriation of \$56,195.00.

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**THIRD READING OF RESOLUTIONS AND ORDINANCES: cont.**

Mr. Troyer asked Mr. Salvatore what is the reason behind this amendment?

Mr. Salvatore responded this is strictly a housecleaning and will zero itself out under the second Transfers and Refunds.

Mr. Troyer stated I see that but no particular reason.

Mr. Cingle stated the reason for this is when the original ordinance was put together there was an inputting data entry error and the \$500.00 should be going to Refunds through the Building Department; and was inputted under Contractual Services so the correction is being made tonight. The same thing with Fund 215, I can answer the question if there is one, - \$200,000.00 was improperly inputted or entered into Supplies and Materials when it should have been inputted under the column of Transfers and Refunds; as Council is aware the intent is to move \$200,000.00 from the Admissions Tax Fund to the General Fund to further fund the operations of the community; so this is again a housekeeping item to get the proper figures into the right columns.

Mr. Troyer stated thank you and I would just like to make a comment that I was just handed all these amendments right before the meeting and am trying to get through them as we go along to make a proper vote.

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**ROLL CALL: AYES:** Salvatore, Burgio, Powers, Higgins, D'Amico, Troyer  
**NAYS:** None. The amendment carried.

**Motion** by Mr. Salvatore, supported by Mr. D'Amico, to amend Fund 415 – Building Department – Transfers and Refunds to amend the adjusted amount of \$500.00 for an adjusted appropriation of \$500.00.

**ROLL CALL: AYES:** Salvatore, D'Amico, Troyer, Mencini, Burgio, Powers, Higgins  
**NAYS:** None. The amendment carried.

**Motion** by Mr. Salvatore, supported by Mr. D'Amico, to amend Fund 423 – Sanitation – Personal Services to amend the original appropriation of \$159,929.03 to amend the adjusted amount of \$465,919.93 for an adjusted appropriation of \$625,848.96.

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Mr. Troyer stated this is to keep from privatizing sanitation, at least at this point, this is basically the amendment tried to get through a few weeks ago but I appreciate this coming forward now and will vote for the next three.

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**ROLL CALL: AYES:** Salvatore, D'Amico, Troyer, Mencini, Burgio, Powers, Higgins  
**NAYS:** None. The motion carried.

**THIRD READING OF RESOLUTIONS AND ORDINANCES: cont.**

**Motion** by Mr. Salvatore, supported by Mr. Burgio, to amend Fund 423 – Sanitation - Contractual Services to amend the original appropriation of \$869,549.46 for an adjusted amount of \$867,000.00 for an adjusted appropriation of \$2,649.46.

**ROLL CALL: AYES:** Salvatore, Burgio, Mencini, Powers, Higgins, D'Amico, Troyer  
**NAYS:** None. The amendment carried.

**Motion** by Mr. Salvatore, supported by Mr. D'Amico, to amend Fund 423 – Sanitation – Supplies and Materials to amend the original appropriation of \$156,306.73 for an adjusted appropriation of \$310,000.00 for an adjusted appropriation of \$466,906.73.

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Mrs. Powers asked Mr. Salvatore why such an increase?

Mr. Salvatore responded looks like we're going to buy a lot of supplies this year.

Mrs. Powers for what?

Mr. Salvatore I was only kidding, that was a joke.

Mr. Healy stated the increase of \$310,600.00 is what is going to be needed when we originally budgeted the number was for dumping fees and gas through April. Now there are eight more months into that mix and if you look at last year's expenses, or over the last few years by looking at that line item. You will see roughly about a \$20,000 increase and last year we had \$381,000.00 that was spent there so this is going to put us right around \$400,000.00 for the year.

Mrs. Powers stated was the change also because, hopefully, we won't be contracting out.

Mr. Healy responded that was the reduction in the line item before the \$867,000.00 that included all the dumping fees if outsourced; now it's being taken by the city to the dump using city trucks.

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**ROLL CALL: AYES:** Salvatore, D'Amico, Troyer, Burgio, Powers, Higgins  
**NAYS:** None. The amendment carried.

**Motion** by Mr. Salvatore, supported by Mr. Higgins, to amend Fund 428 – Public Properties – Personal Services to amend the original appropriation of \$199,186.85 for an adjusted amount of \$82,582.97 for an adjusted appropriation of \$281,769.82.

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Mr. Troyer stated just handed this today what are we doing here, what's the idea; through the chair to Greg Cingle.

**Third Reading of Resolutions and Ordinances: cont.**

Mr. Cingle stated that moving one employee that was expensed out of Sewers & Drains, talking with the service director and he had asked that one employee be moved to Public Properties because that is where the individual is working out of today, so we are making that move on the request of the service director.

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**ROLL CALL: AYES:** Salvatore, Higgins, Powers, Burgio, Mencini, D'Amico, Troyer  
**NAYS:** None. The amendment carried.

**Motion** by Mr. Salvatore, supported by Mr. Higgins, to amend Fund 429 – Sewers & Drains – Personal Services to amend the original appropriation of \$1,176,754.97 for an adjusted amount of \$452,417.79 for an adjusted appropriation of \$484,337.18.

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Mr. Higgins stated I think the adjusted appropriation amount would be \$724,337.00, wouldn't it Mr. Salvatore.

Mr. Cingle stated the correct amount calculated is \$724,337.18.

Mr. Salvatore reread the motion as the adjusted appropriation to read \$724,337.00.

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**ROLL CALL: AYES:** Salvatore, Higgins, Powers, Burgio, Mencini, Troyer, D'Amico  
**NAYS:** None. The amendment carried.

**Motion** by Mr. Salvatore, supported by Mr. D'Amico, to amend Fund 880 – Transfers & Refunds – to amend the original appropriation of \$2,194,300.00 for an adjusted amount of \$57,550.00 for an adjusted appropriation of \$2,251,850.00.

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Mr. Troyer stated I'm going to vote no on this because I have an alternative amendment.

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**ROLL CALL: AYES:** Salvatore, D'Amico, Mencini, Burgio, Higgins  
**NAYS:** Troyer, Powers. The amendment carried with a vote of 5-2.

**Motion** by Mr. Salvatore, supported by Mr. D'Amico, to amend Fund 215 – Admissions Tax Fund – line item 440 – Tax Department – Supplies & Materials amend the original appropriation of \$212,735.26 for an adjusted amount of \$200,000.00 for an adjusted appropriation of \$12,735.26.

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Mr. Troyer asked Mr. Cingle for an explanation of what we're doing here and why?

Mr. Cingle responded in this fund, again, there is a entry error when the ordinance was put together. As Council is aware the original budget showed that the proposal was to transfer \$200,000.00 from the Admissions Tax Fund to the General Fund to

**Third Reading of Resolutions and Ordinances: cont.**

assist or to add to the funding sources to provide service to the community. So this is strictly moving the dollars out of one column into the correct column which is Transfers & Refunds.

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**ROLL CALL: AYES:** Salvatore, D'Amico, Troyer, Mencini, Burgio, Powers, Higgins  
**NAYS:** None. The amendment carried.

**Motion** by Mr. Salvatore, supported by Mr. Mencini, to amend Fund 215 – line item 440 – Tax Department – Transfers & Refunds to amend the original appropriation of \$0.00 for an adjusted amount of \$200,000.00 for an adjusted appropriation of \$200,000.00.

**ROLL CALL: AYES:** Salvatore, Mencini, Burgio, Powers, Higgins, D'Amico, Troyer  
**NAYS:** None. The amendment carried.

**Motion** by Mr. Salvatore, supported by Mr. Mencini, to amend Fund 240 – Street C.M. & Repair Fund line item – 425 – Personal Services to amend the original appropriation of \$430,165.67 for an adjusted amount of 447,571.81 for an adjusted appropriation of \$477,737.48.

**ROLL CALL: AYES:** Salvatore, Mencini, Burgio, Higgins, D'Amico, Troyer.  
**NAYS:** Powers. The motion carried with a vote of 6-1.

**Motion** by Mr. Salvatore, supported by Mr. Mencini, to amend Fund 240 – Street C.M. & Repair Fund line item – 425 Street Paving & Repair – Supplies and Materials to amend the original appropriation of \$74,245.56 for an adjusted amount of \$58,000.00 for an adjusted appropriation of \$132,245.55.

**ROLL CALL: AYES:** Salvatore, Mencini, Burgio, Powers, Higgins, D'Amico, Troyer  
**NAYS:** None. The amendment carried.

**Motion** by Mr. Salvatore, supported by Mr. D'Amico, to amend Fund 711 – Police Pension Fund – line item 412 – Police Department – Personal Services to amend the original appropriation of \$595,094.10 for an adjusted amount of \$9,371.21 for an adjusted appropriation of \$604,465.31.

**ROLL CALL: AYES:** Salvatore, D'Amico, Troyer, Mencini, Burgio, Powers, Higgins  
**NAYS:** None. The amendment carried.

**Motion** by Mr. Salvatore, supported by Mr. Burgio, to amend Fund 712 – Fire Pension Fund – line item 413 – Fire Department – Personal Services to amend the original appropriation of \$670,863.52 for an adjusted amount of \$37,680.00 for an adjusted appropriation of \$708,543.52

**ROLL CALL: AYES:** Salvatore, Burgio, Mencini, Powers, Higgins, D'Amico, Troyer  
**NAYS:** None. The amendment carried.

**Motion** by Mr. Salvatore, supported by Mr. Higgins for the total changes of negative (-) \$42,111.06.

**ROLL CALL: AYES:** Salvatore, Higgins, Powers, Burgio, Mencini, Troyer, D'Amico  
**NAYS:** None. The changes were approved.

Third Reading of Resolutions and Ordinances: cont.

Mr. Troyer stated move to amend, I'll just try to do this quickly and Mr. Cingle could help me out a little bit here; I have all and again things have changed. What I would like to do is on last month's amendments the Economic Development Fund ended up with \$500,000.00 just sitting there not 'earmarked'. So what I would like to do is amend Contracts in 243 – Economic Development Fund found on page 2 of the long budget amend contractual services to \$331,547.94, I'll just go through them all.

Mr. Patten stated let's do them one at a time.

**Motion by Mr. Troyer, supported by Mrs. Powers, to amend Fund 243 – Economic Development Fund line item 821 - Contractual Services by \$331,547.94.**

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Mr. Salvatore asked can you explain why we're doing this.

Mr. Troyer responded we have \$500,000 in Economic Development that is not 'earmarked' for anything, it's just sitting there, and I feel there is no reason to have that there right now. We should leave it in the Sound Insulation Fund until we find something else to do with it.

Mr. Salvatore stated I thought we did have something to do with it; it is 'earmarked'.

Mr. Troyer stated you still had \$500,000.00 there you had...according to your budget here from last meeting you had the \$151 to \$120.

Mr. Salvatore stated right and the \$500,000.00 was for job creation.

Mr. Troyer stated in what way?

Mr. Salvatore responded whatever comes up.

Mr. Troyer stated so it's not necessarily 'earmarked' its just generally there so it's not like these other ones were actually 'earmarked'; sidewalk, housing program, cross connection...

Mr. Salvatore interjected you're absolutely right, that money is 'earmarked' and new projects are scheduled to take place ASAP (as soon as possible), once this budget passes. I think what the rest of that money was there for was for the future of this community.

Mr. Troyer stated it will still be there, it will just be in the Sound Insulation Fund where it belongs.

Mr. D'Amico stated I think we discussed this last meeting the whole thing would be, of course, what we talked about with appropriations put into the Economic Development Fund besides the jobs. The thing is what you're suggesting is to put it back into the Sound Insulation Fund that has been talked about over and over and the ability to do what with it at that time and what is still left to do. I think the engineer has talked about it and Mr. Dolan's talked about it what exactly can be done with it. So actually my opinion is if you put it back there it's actually going to do what you don't want it to

**Third Reading of Resolutions and Ordinances: cont.**

do and supposedly, what you're saying, in this fund it's going to sit there and do nothing; we have no plans for that in the future. As far as I understand do we, Ed or Mr. Dolan...

Mayor Coyne stated let me ask the question please. The fact of the matter is you still have about \$500,000.00 for Sound Insulation for future projects that might be used to mitigate that. With all due respect Mr. Chairman of the Finance Committee we've discussed this the Economic Development money is initiative money that, again, will take individual legislative action by Council for the various programs that we use. Just like as we explained to you Sidewalk Program, the Housing Program we've talked about that we will set the parameters on how that is going to be done and be implemented by Council action. So its just not sitting there it has to be appropriated into a fund so Council can make the appropriate legislation necessary to expend the funds for the proper reasons as Council deems necessary.

Mr. D'Amico stated my point is that money going back into the Sound Insulation Fund will just sit there and do nothing.

Mayor Coyne stated you are correct.

Mr. Higgins, stated that was the point I was going to make I was going to remind Mr. Troyer of our conversation this afternoon about that money; that money can't be spent without Council's permission. So if there is a good project or some kind of good reason it will be brought forward in front of this body and Council will make a decision at that time; so there's no reason to do anything with it in my opinion.

Mr. Troyer stated either way you're saying it's just going to sit there until we do something with it. I think we put it back into the Sound Insulation Fund we'd show that we're spending less money this year, is what we would show by \$500,000.00.

Mayor Coyne stated it would be disingenuous of this Council and this Administration we're taking up an initiative to redevelop properties; I'll give you an example Councilman. Just as may be the city has a building like the old Quanset Hut and I think everybody agrees that building should be demolished ideally and have a new building built. Let's just say that owner comes in and says we want the city as a grant to cover the demolition costs and let's just say it's \$50,000.00 or \$35,000.00. We would bring that measure to City Council to say okay they're going to come in and create so many jobs just like with Harley Davidson and here under this direction, you don't just want to change it. The fact of the matter is we need to spend this money going forward so that jobs can be created so then you'll have more money to spend addressing people's problems. If the money sits there and isn't working then you'll continue to have to worry about cutting more things. This isn't about what is the optimal thing to look at from the term of appearance it's running a community and developing its future. So how it looks is how it should be and it should be expended in moving this city forward.

Mrs. Powers stated the Sound Insulation Fund was supposed to be, first it was for the airport noise and there are many people in the Fairlawn area that did not get any sound insulation funding; there are many people over behind the airport that didn't get sound insulation.

Third Reading of Resolutions and Ordinances: cont.

Mr. Patten interjected Councilwoman that money was not for that, just for a point of information. That is federal monies that you're talking about on sound insulation.

Mrs. Powers stated I think it should go back into sound insulation to protect it because we have...look at the last year that we've been here. How many times has a lot of money been spent with no input from Council; contracts have been let with no bids; contracts have been let, for instance, the Recreation Center.

Mr. Patten interjected is this your point on moving this money?

Mrs. Powers stated yes, this is making a point on our money. When the contract was let in the basement of the Recreation Center they organization had already moved in before Council was able to say anything about it.

Mr. Patten interjected that has nothing to do with moving this money. Councilwoman you have to stick to the agenda so right now there's a motion on the floor that you seconded to move this money and Councilman Troyer gave the reasons being. So unless you're against that, that's what we're doing right now.

Mrs. Powers stated I'm for putting it back.

Mr. Patten stated you seconded this motion.

Mrs. Powers stated yes.

Mr. Patten stated so the other Council Members are questioning why you're doing that; so you're...

Mrs. Powers stated I'm trying to tell you that we're doing it to protect it from sitting out there in the Transfers and Refunds where it can be picked off without Council...

Mr. Patten interjected that's not true. Councilwoman, you have to understand how this process works and we've had long discussions on this. I will tell you that you need to spend some time and take your time but you need to understand how it works. Right now some Council Members are questioning on why Councilman Troyer made the motion and you seconded on moving that money.

Mr. Salvatore stated for a point of clarification that money is safeguarded by the City Council and that money can't be spent on anything unless it comes before Council. I think the money perfectly is in good hands, it's safe; it's protected and it's protected by everybody here including the Mayor. I do believe that as a Council Member, Mr. Troyer certainly has the opportunity to make an amendment and commend him for that and you feel strongly about making an amendment and

have a second on it; but I think this has been debated long enough you have a second on it but I'll ask you to call the roll.

**Third Reading of Resolutions and Ordinances: cont.**

Mr. Patten stated okay, call the roll.

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**ROLL CALL: AYES:** Troyer, Powers

**NAYS:** Burgio, Mencini, Higgins, D'Amico, Salvatore. The amendment failed with a vote of 2-5. **Failed**

Mr. Troyer stated I have another amendment but since the first amendment didn't pass the other amendments would go along with that and don't need to be discussed. I do have another amendment concerning something else.

**Motion** by Mr. Troyer, supported by Mrs. Powers, to amend Fund 874 – Miscellaneous Executive Fund to amend Contractual Services from \$396,073.61 to \$196,037.61.

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Mr. Troyer stated what this does is takes some of the Miscellaneous Executive Fund, which is going to fund this lawsuit, and makes it more of a Council control as it goes along. The reason I'm doing this is to me; it's disturbing that tax dollars are being used to name residents' as defendants when they did nothing wrong. I understand the reason for the lawsuit but when it goes against the residents' the way it did and there's a clause at the end that kinds of threatens them that they might be responsible for court costs. I cannot support providing the Administration with excessive funding that allows going after residents' in the future and would like to see the Administration approach City Council and explain the case they want to pursue and ask for funding. I can no longer support for providing the Administration with generous legal war chest to advance an agenda that the community does not support.

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**ROLL CALL: AYES:** Troyer, Powers

**NAYS:** Burgio, Mencini, Higgins

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Mr. Higgins stated no with comment Members, this item covers so much more than that including the lawyers for union contracts and an array of things. You just can't strip this money so my vote is no.

Continuation with **ROLL CALL:** D'Amico with comment and until we get all the bills we won't know what was spent for anyway so we need to protect the unions and different things.

Continuation with **ROLL CALL:** Salvatore with comment I have the same comments, No. The amendment failed with a vote of 2-5. **Failed**

Mr. Troyer stated there is another one to go with that but since that failed I don't need to bring it forward.

Mr. Salvatore stated if I may before we leave that topic, I guess I'm taking offense to that because I don't think anybody up here including the Mayor and can't speak for anybody but can speak for myself; no one is going after anybody personally. This isn't what this is all about and it's been **Third Reading of Resolutions and Ordinances: cont.**

discussed over and over again. I don't want to see anybody in Brook Park be hurt and expend taxpayers' money to do it, that's not what this is about at all. Me, personally, I don't think it belonged on the ballot I think it belonged in the back room and it should have been negotiated, that's my feeling, but until this thing is clarified we're never going to have the truth and resolve this issue once and for all. No one is trying to hurt anybody whatever side you were on, if there are sides, last time I checked we all live in the same community and should all be on the same side.

Mr. Patten stated Ordinance No. 9957-2015 is amended and reverts back to its Second Reading.  
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There being no further business to come before this meeting Council President Patten declared this meeting adjourned at 9:45 p.m.

RESPECTFULLY SUBMITTED



Michelle Blazak  
Clerk of Council

APPROVED



THESE MEETING MINUTES APPROVED BY BROOK PARK CITY COUNCIL ARE A SYNOPSIS,  
NOT TRANSCRIBED IN THEIR ENTIRETY, ALTHOUGH ACCURATE.